



## Natick Finance Committee

Pursuant to Chapter 40, Section 3 of the Town of Natick By-Laws, I attest that the attached copy is the approved copy of the minutes for the following meeting:

### **Town of Natick Finance Committee**

**Meeting Date: March 6, 2014**

The minutes were approved through the following action:

Motion:	Approval
Made by:	Mr. Pierce
Seconded by:	Mr. Hayes
Vote:	11-0-0
Date:	March 11, 2014

Respectfully submitted,

James Everett  
Secretary  
Natick Finance Committee

**NATICK FINANCE COMMITTEE MEETING MINUTES**

**March 6, 2014**

**Natick Town Hall  
School Committee Meeting Room, Third Floor**

This meeting has been properly posted as required by law.

**MEMBERS PRESENT:**

Jonathan Freedman, Chairman	James Everett, Clerk
Karen Adelman Foster	Michael Ferrari
Jimmy Brown	Patrick Hayes
John Ciccariello	Mark Kelleher
Catherine M. Coughlin	Jerry Pierce
Bruce Evans, Vice Chairman	Edward Shooshanian

**MEMBERS ABSENT:**

Mari Barrera  
Cathleen Collins  
Christopher Resmini

**ATTACHMENTS:**

- A. Agenda for this evening's meeting
- B. Natick Finance Committee Standard Warrant Article Questions – Article #: 3, Date: 3/3/2014, Title: Transfer of Land to Conservation Commission: 0 Bradford Road End
- C. Memorandum to Board of Selectmen and Conservation Commission from Joshua Ostroff, dated January 9, 2014, Re: Spring Town Meeting warrant article – transfer of land to ConCom
- D. FY 2014 Residential Property Record Card - PARCEL: 14-00000078, LOCATION: 0 BRADFORD RD END
- E. Natick Finance Committee Standard Warrant Article Questions – Article #: 7, Date: February 18, 2014, Title: Adopt MGL Chapter 147, Section 10F: Appointment of Parking Control Officers, Sponsor(s): Board of Selectmen
- F. Electronic Mail from Senator Richard Ross to Martha White, dated Thursday, March 14, 2013, Subject: Attorney General Decisions on Medical Marijuana Bylaws
- G. Letter to Mary K. Galvin, Town Clerk, Town of Wakefield, from Martha Coakley, Attorney General, by: Margaret J. Hurley, Assistant Attorney General, Chief, Central Massachusetts Division, dated March 13, 2013, RE: Wakefield Fall Annual Town Meeting of November 15, 2012 - Case # 6601 Warrant Article # 11 (Zoning)
- H. Article 11 Motion

- I. Natick Finance Committee Standard Warrant Article Questions – Article #: 45, Date: March 6, 2014, Title: Designation of Economic Opportunity Area , Sponsor(s): Economic Development Committee
- J. Electronic Memorandum from John P. Flynn to Jonathan Freedman, dated Mar 6 2014, Subject: Article 10, 2014 Natick Annual Town Meeting
- K. Natick Finance Committee Standard Warrant Article Questions – Article #: 38, Date: 3/6/2014, Title: Rescind Authorized, Unissued Debt, Sponsor(s): Town Administrator

Meeting was called to order by Mr. Freedman at 7:04 p.m.

The Chairman reviewed the evening's agenda.

**PUBLIC CONCERNS/COMMENTS:**

Mr. Brown reminded the members that a School Committee candidate debate would take place at 7 p.m. on March 12, 2014 in the School Committee Meeting Room at Town Hall. He also noted that the Board of Health and Board of Selectmen candidate debates, held at the Morse Institute Library the previous evening, would be re-broadcast by Pegasus several times until the March 21<sup>st</sup> election. Anyone wishing to view the debates should consult the broadcast schedule on the Pegasus website.

**OLD BUSINESS:**

Hearing Schedule Changes:

Mr. Freedman stated that he was aware of no changes to the Finance Committee hearing schedule dated 2/26/2014.

Subcommittee Updates:

Mr. Ciccariello said he would be posting a meeting of the Charter & By-laws Subcommittee for 7:15 p.m. on Wednesday, March 12, 2014, to coincide with a meeting of the Planning Board at which several zoning Articles will be discussed.

Ms. Martha White, Town Administrator, reported that as a result of identification of some problems with the map produced in relation to the Zoning By-Laws reorganization, and the limited time available to correct these before Town Meeting, the Zoning By-law Review Committee had voted to request a recommendation of No Action under Article 13.

Public Hearing FY 2014 Spring Annual Town Meeting Warrant Articles:

A motion was made, at 7:11 p.m., to open the public hearing on the FY 2013 Fall Annual Town Meeting Warrant Articles.

Moved/Motioned by:	Mr. Ciccariello
Seconded by:	Mr. Pierce
Motions or Debates:	None
Vote:	12 – 0 – 0 (unanimous)

Article 7 – Adopt MGL Chapter 147, Section 10F: Appointment of Parking Control Officers:

The Chairman welcomed Natick Police Chief James Hicks to the podium to present information relating to Article 7.

The members were referred to the responses to the Standard Questions for this Article (Attachment E) included in the meeting handouts.

Chief Hicks explained that it had been discovered that the town had never accepted the provisions of Massachusetts General Law (MGL) Chapter 147, Section 10F, which related to the appointment of parking control officers.

Member questions and discussion included the following:

- A question was raised as to the legality of parking tickets issued to date. The Town Administrator reported that Town Counsel had been consulted regarding this and did not believe there was any problem with previous tickets issued as the appeals period for any except those very recently issued would have expired by this time.
- The specific title for these positions on the town's Pay Plan is "meter enforcement officer;" it is not anticipated that this would need to be changed.
- In Natick these individuals are appointed by the Selectmen in accordance with the town's Charter.

A motion was made, at 7:18 p.m., to move favorable action on the subject matter of Article 7 to adopt MGL Chapter 147, Section 10F: Appointment of Parking Control Officers.

Moved/Motioned by:	Mr. Evans
Seconded by:	Mr. Pierce
Motions or Debates:	Mr. Evans said he saw this as just a housekeeping issue.
Vote:	12 – 0 – 0 (unanimous)

**Article 10 – Amend Town By-Laws: Ban of Marijuana Cultivation, Treatment Centers:**

Mr. Freedman welcomed Mr. Bruce Snow, sponsor of Article 10 to the podium to speak to this Article.

Mr. Snow presented the rationale for his proposed amendment to the town By-laws, which would ban both marijuana cultivation and medical marijuana treatment centers in the town, based on his opinion that Chapter 369 of the Acts of 2012, "An Act for the Humanitarian Medical Use of Marijuana" which was enacted following approval by the voters of the Commonwealth of Question 3 on the November 2012 state ballot was unconstitutional as he believed it conflicted with federal law.

Mr. Ciccariello reported that three of the members of the Charter & By-laws Subcommittee had attended the Planning Board meeting on February 26<sup>th</sup> when this Article was presented and discussed, and the Planning Board had voted 5-0 to recommend No Action on this Article and the Subcommittee had voted 3-0 in favor of Indefinite Postponement.

Mr. Freedman noted that several items (Attachments F, G & J) relating to the subject matter of Article 10 were included in the evening's handouts, including a memorandum from Town Counsel (Attachment J) summarizing his opinion that if Town Meeting were to approve this by-law amendment the amendment would not be valid based on several factors including:

- The favorable state-wide vote;
- Disapproval by the state Attorney General of a by-law amendment proposed by another town intended to ban medical marijuana treatment centers;
- The Attorney General's disapproval of a general by-law amendment approved at 2013 Town Meeting imposing a temporary moratorium on medical marijuana saying that restrictions on the use of land or structures for medical marijuana treatment centers should be adopted as a zoning by-law, not a general by-law.

Member questions and discussion included the following:

- Although 63% of Commonwealth voters approved the state ballot question in 2012, the proponent questions whether these voters fully understood what they were voting for.
- The proponent believes collective opposition to this law could lead to legal action to challenge its constitutionality and that the associated costs would be an appropriate use of taxpayer resources.

A motion was made, at 7:53 p.m., to recommend Indefinite Postponement of Article 10.

Moved/Motioned by:	Ms. Adelman Foster
Seconded by:	Mr. Pierce

A motion was made, at 7:54 p.m., to recommend No Action on Article 10.

Moved/Motioned by:	Mr. Everett
Seconded by:	Ms. Coughlin

Motions or Debates:	<ol style="list-style-type: none"> <li>1. Ms. Adelman Foster said she did not have a preference regarding which of the motions prevailed but hoped that significant time was not spent on the distinctions between the two. She said she did not believe it would be proper for Town Meeting to knowingly pass something which was known to be unacceptable or illegal or to recommend that the town pursue costly legal action, particularly in today's budget environment. She said if this law was subsequently deemed to be unconstitutional the town could take appropriate action at that time but, until then, she would prefer to comply with the law as understood by the Attorney General and concentrate on assuring that its regulation was written and restricted appropriately for the community.</li> <li>2. Mr. Pierce said he wholeheartedly agreed with the previous speaker's comments and said he did not want to send a "slap in the face" to the majority of town voters who had voted in support of this.</li> <li>3. Mr. Everett said he had proposed no action for much the same reasons as with previous no action recommendations, i.e. when an item was felt to be filed incorrectly, or inappropriate. He pointed out that with an IP vote, an item could be brought back at some future time, but the intent here was not to postpone this but to stop it from going forward until there was clarification from the state regarding what would be allowed. He noted that the proponent had cited studies suggesting that marijuana did not have medicinal value, was addictive and detrimental to health; but he thought studies could also be found supporting the opposite conclusions and if studies were going to be used, then both sides should be taken into consideration. Another argument made by the proponent was that the town shouldn't allow something which was addictive and dangerous to health, but he pointed out that the same arguments could be made, in certain cases, about alcohol which was allowed with appropriate regulation. He agreed that legal action would be too costly and said if that were to be pursued it would more appropriately be up to the Federal Attorney General rather than for individual towns to try to enforce federal over state law. Although he thought it</li> </ol>
---------------------	--

	<p>might be hard to show significant collective opposition, if 62% of the voters had supported this, but said there were other ways that might be done, such as through a resolution from Town Meeting. Finally, he pointed out that any restriction needed to be in the form of a zoning by-law as a general by-law had already been deemed inappropriate and so this would clearly not be accepted and therefore he believed no action was the appropriate recommendation.</p> <ol style="list-style-type: none"><li>4. Ms. Coughlin thanked the proponent for all the effort he had obviously put into this and for his continued dedication to advancing the best interests of the town through this, as well as previous efforts she was aware of. She said she felt a no action recommendation was a kinder response than IP and supported that based on her respect for all the work done on this by the Article's sponsor as a concerned citizen.</li><li>5. Mr. Hayes agreed with the previous speaker's comments saying he appreciated the proponent bringing this forward no matter what the outcome, and recognized it was not always an easy thing to do. He said he had searched unsuccessfully for a copy of <i>Town Meeting Times</i> because he thought IP meant something could never come back and he thought there might be a reason this should come back at some point in the future. Also, he said he felt IP was wrong for any Article because of the negative message it sent to the sponsors which could deter others from putting something forward; and he felt there were other procedures which could be used which accomplished what was needed.</li><li>6. Mr. Brown said he would support the no action recommendation as he also disliked IP. He noted that the proponent had brought several items before Town Meeting in the past and these had never been based on self-interest but were all for the betterment of Natick.</li><li>7. Mr. Evans also commended the proponent for bringing this forward saying he appreciated his earnestness and this furthered the discussion no matter what the eventual outcome. He said he would, however, support no action for several reasons including (1) the percentage of voters who had voted in support of the ballot question; (2) he felt the moratorium and zoning by-law were the most effective ways to restrict and control these activities, vs. prohibiting them; and (3) as noted by a previous speaker, studies could be found to support both sides in terms of the questions of whether marijuana was addictive and whether medicinal or detrimental to health. Finally, he said the question of state vs. federal authority and jurisdiction was a national debate and Natick didn't have the resources to lead that challenge.</li><li>8. Ms. Adelman Foster said she also appreciated the passion expressed by the proponent in bringing this forward and defending his position and had been convinced by other speakers to change her vote to support of no action. She said she still felt IP was an appropriate recommendation in certain cases and did not think this should be viewed as a personal rebuke.</li></ol>
--	---

	9. Mr. Freedman said he respected the proponent's sincerity and appreciated his efforts on behalf of the town although he might not always agree with his conclusions. He said an important point, alluded to by other speakers was the open discussion and debate of differing opinions and points of view, rather than blocking out that which one didn't agree with, citing President Lincoln's decision to invite opponents and adversaries into his cabinet so he could work with them. He said he would rather the town have the ability to control where these treatment centers go and how they will be regulated, rather than have no control or oversight so he felt a ban would be the wrong way for the town to go.
Vote: <b>(Indefinite Postponement)</b>	0 – 12 – 0
Vote: <b>(No Action)</b>	12 – 0 – 0 (unanimous)

Article 11 – Amend Zoning By-Laws: Extend Medical Marijuana Moratorium to 12/31/2014 or Date of Approval of Local By-Law, Whichever is Earlier:

Ms. White took the podium to speak to this Article.

The members were referred to a draft motion prepared by Town Counsel (Attachment H) which was included in the handouts.

Ms. White explained that the purpose of Article 11 was to extend the existing moratorium relating to medical marijuana treatment centers to cover any period until a proposed zoning by-law defining and regulating such centers is approved by the state Attorney General.

Mr. Ciccariello reported that the Planning Board had voted 5-0 and the Charter & By-law Subcommittee by a vote of 3-0 to support this Article.

Ms. White noted that the date of 12/31/2014 is intended to cover the possibility that favorable action on the proposed by-law is not achieved at the upcoming Spring Town Meeting and does not occur until Fall Town Meeting.

A motion was made, at 8:20 p.m., to move favorable action on the subject matter of Article 11 to extend the medical marijuana moratorium to 12/31/2014 or the date of approval of the local by-law, whichever is earlier.

Moved/Motioned by:	Mr. Everett
Seconded by:	Mr. Evans
Motions or Debates:	1. Mr. Everett said he considered this simply a housekeeping issue. 2. Mr. Evans concurred.
Vote:	12 – 0 – 0 (unanimous)

Article 12 – Amend Zoning By-Laws: Medical Marijuana Treatment Centers:

Noting that the Planning Board had continued their hearing on this Article to March 12<sup>th</sup>, Mr. Freedman suggested that the Finance Committee might wish to defer this Article to a subsequent date in order to be able to benefit from the discussion of that hearing.

A motion was made, at 8:22 p.m., to postpone Article 12 to March 18, 2014.

Moved/Motioned by:	Mr. Everett
Seconded by:	Mr. Pierce
Motions or Debates:	None
Vote:	11 – 0 – 0 (unanimous)

Article 3 – Transfer of Land to Conservation Commission: 0 Bradford Road End:

Mr. Freedman welcomed Ms. Josh Ostroff, a member of the Board of Selectmen, and Mr. Matthew Gardner, a member of the Conservation Commission, to the podium to present information regarding Article 3.

The members were referred to several items in the packet relating to this Article (Attachments B, C & D).

Mr. Ostroff reviewed the background and rationale for this Article, as detailed in the Attachments.

Mr. Gardner pointed out that land must be under the care, custody and control of the Conservation Commission in order for Commission funds to be expended for any purpose associated with the property.

It was noted that the Conservation Commission had voted its support of this Article on February 6<sup>th</sup>, and the Selectmen were scheduled to take this up at their upcoming meeting on March 10, 2014.

Member questions and discussion included the following:

- Full and continued access to the Pine Oaks Well by the town will be assured as part of this arrangement as has been the case with the town forest. No easement would be required for this purpose.
- Once the land has been transferred to the Conservation Commission, an act of the state legislature would be required to reverse this.
- A question was raised as to the legal distinction between land “transfer” and “conveyance” and whether the provisions of MGL Chapter 40 Section 15, which was noted to address issues related to “...land, easement or right[s]... no longer required for public purposes...” would apply to this. It was noted that, historically, the term “transfer” had been used for similar exchanges between municipal entities, and that the plan for continued and expanded use of this property for public purposes more accurately characterized this as a transfer rather than a conveyance.

Public concerns and comments:

Mr. Martin Kessel, Chair of the Open Space Advisory Committee, reported that that Committee had endorsed this Article as it was consistent with the goal of the town’s Open Space and Recreation Plan to protect town-owned open space.

Ms. Nancy Lavash, Precinct 1, noting what she considered the unreasonableness of the Conservation Commission in another town with which she was aware, said that while she felt the current Commission was reasonable, she would be more comfortable with some written agreement to assure the town’s access for management and maintenance of the town well on this property in the event of some unforeseen change in a future Conservation Commission’s philosophy and position on this matter.

Mr. Ostroff read the text of a motion proposed under this Article (Attachment C) which specified that the Selectmen would “...retain rights and obligations related to public water systems now or hereafter located on said parcel of land, including without limitation rights and obligations related to access to, egress from, and protection and maintenance of such public water systems ...”



A motion was made, at 8:59 p.m., to move favorable action on the subject matter of Article 3 regarding transfer of land at 0 Bradford Road End to the Conservation Commission.

Moved/Motioned by:	Mr. Everett
Seconded by:	Mr. Pierce
Motions or Debates:	<ol style="list-style-type: none"> <li>1. Mr. Everett noted that a question had been raised regarding the legal distinction between use of the terms “transfer” and “convey” in this context and he was comfortable with the explanation that use of “transfer” was consistent with past practice but, as take-away, would still like to have Town Counsel’s clarification of this. Noting that this would permit Conservation Commission funds to be used to develop this property for recreational use by the town, he observed that a significant portion of this land was wetland and he questioned if that could be developed, but agreed this belonged in conservation. He added that he would like to see access to this property from Bradford Road.</li> <li>2. Mr. Pierce said he thought this plan would be a great addition for the town’s citizens and noted how helpful the Conservation Commission had been to the Natick Community Organic Farm.</li> <li>3. Ms. Coughlin said although she agreed with the substance of this Article as she was not certain of the legal implications of the terminology and whether Chapter 40 Section 15 would apply to this she would abstain pending that clarification.</li> <li>4. Mr. Ciccariello said he felt sufficiently comfortable with the answers which had been provided to questions raised that he would support this. He noted that he had been involved, during his years as a Selectman, with a number of transfers of properties within the town from one entity to another and the term “transfer” had always been used. He appreciated the legal question which had been raised, however, and expected that a response from Town Counsel would be received before Town Meeting; and if it proved necessary, the language could be revised, but he didn’t expect that to change his support for the Article. He said he was reassured that this property would continue to be accessible for the purpose of maintaining access to the town’s water equipment and urged support for favorable action.</li> <li>5. Mr. Brown said he would support this for similar reasons as stated by previous speakers and said he was certain the questions raised would be clarified before Town Meeting.</li> </ol>
Vote:	11 – 0 – 1

**Article 38 – Rescind Authorized, Unused Debt:**

Ms. White returned to the podium to speak to this Article.

The members were referred to the responses to the Standard Questions for this Article (Attachment K) which was distributed this evening.

Ms. White noted that a similar Article had been included on the Warrant for several years often without any action requested, however, this year a small amount of authorized unneeded debt in the amount of \$161,055 had been identified related to a 2012 MWRA grant for sewer inflow and infiltration (I&I) work.

Mr. Bill Chenard, Deputy Town Administrator, Operations, reminded the members that with I&I projects, the MWRA provides 45% of the funding and advances a 0% interest loan for the 55% of project costs paid by the town, but borrowing must be authorized for the full amount of any project. He explained that this money represented an amount of the borrowing authorized for a 2012 project which would not be needed.

A motion was made, at 9:15 p.m., to move favorable action on the subject matter of Article 38 to rescind authorized unissued debt associated with a 2012 MWRA grant in the amount of \$161,055.

Moved/Motioned by:	Mr. Ciccariello
Seconded by:	Mr. Evans
Motions or Debates:	<ol style="list-style-type: none"><li>1. Mr. Ciccariello said he was glad to see these items being cleaned up as they were identified.</li><li>2. Mr. Evans said he appreciated the clarification explaining this which facilitated his understanding.</li><li>3. Mr. Everett said this was a “no brainer” and he would like to see similar items and encumbrances cleared up as often as possible.</li></ol>
Vote:	12 – 0 – 0 (unanimous)

Article 45 – Designation of Economic Opportunity Area:

The Chairman welcomed Mr. Paul Joseph, Chair of the Economic Development Committee (EDC) which sponsored this Article, to the podium to present information relating to Article 45.

The members were referred to the responses to the Standard Questions for this Article (Attachment I) included in the meeting packet.

Mr. Joseph reviewed the background and rationale for the Article as detailed in the handout explaining that further research, after the Article had been placed on the Warrant, had raised additional questions regarding delineation of specific areas to be included which needed to be addressed before this proceeded further and the Committee was therefore requesting that the Article be referred back to the EDC and the Community Development department.

Member questions and discussion included the following:

- A map is needed to clearly designate areas which would be included in the proposed EOA designation and therefore eligible to participate in various business and tax incentives as well as any potential tax increment financing (TIF).
- Any potential TIF would need to be voted by Town Meeting.
- Designation of an Economic Opportunity Area (EOA) is a first step to allowing participation in any state and local incentive programs.

A motion was made, at 9:29 p.m., to refer Article 45 to the Economic Development Committee and Community Development.

Moved/Motioned by:	Mr. Ciccariello
Seconded by:	Mr. Pierce
Motions or Debates:	<ol style="list-style-type: none"><li>1. Mr. Ciccariello said he was initially wary of this but after the explanation that this was the first of many steps he was comfortable going forward. He said he had long been a proponent of developing a Master Plan for the downtown area and he saw this as part of that in conjunction with the efforts underway related to the Cultural District and the Parking Advisory Committee. He said he hoped that this referral would</li></ol>

	enable all those efforts to be pulled together. 2. Mr. Pierce said he thought this was an exciting concept and thanked the EDC for all their efforts and volunteer hours. 3. Mr. Brown encouraged the effort. 4. Mr. Ferrari said he hoped this would come back soon noting that, as a relative newcomer to the town interested in networking with other young professionals he looked forward to expansion of the number and diversity of downtown businesses to encourage greater use by young families and citizens of the town. He said he appreciated this effort and encouraged its continuation.
Vote:	12 – 0 – 0 (unanimous)

A motion was made, at 9:34 p.m., to close the public hearing on the FY 2014 Spring Annual Town Meeting Warrant Articles.

Moved/Motioned by:	Mr. Pierce
Seconded by:	Mr. Evans
Motions or Debates:	None
Vote:	12 – 0 – 0 (unanimous)

**ADJOURN (9:35 P.M.):**

A motion was made to Adjourn at 9:35 p.m.

Moved/Motioned by:	Mr. Pierce
Seconded by:	Mr. Evans
Motions or Debates:	None
Vote:	12 – 0 – 0 (unanimous)